

105TH CONGRESS  
1ST SESSION

# H. R. 2878

To amend the Elementary and Secondary Education Act of 1965 to establish a loan program and a bond guarantee program to assist local educational agencies in the construction, reconstruction, and renovation of public elementary and secondary schools.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1997

Mr. ANDREWS (for himself and Mr. MENENDEZ) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to establish a loan program and a bond guarantee program to assist local educational agencies in the construction, reconstruction, and renovation of public elementary and secondary schools.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LOAN PROGRAM FOR SCHOOL FACILITIES IM-**  
4 **PROVEMENT.**

5 Title XII of the Elementary and Secondary Edu-  
6 cation Act of 1965 (20 U.S.C. 8501 et seq.) is amended  
7 to read as follows:

1 **“TITLE XII—SCHOOL FACILITIES**  
2 **IMPROVEMENT ACT**

3 **“SEC. 12001. FINDINGS.**

4 “The Congress finds the following:

5 “(1) According to a 1991 survey conducted by  
6 the American Association of School Administrators,  
7 74 percent of all public school buildings in the Unit-  
8 ed States need to be replaced.

9 “(2) Almost one-third of such buildings were  
10 built prior to World War II.

11 “(3) It is estimated that 1 of every 4 public  
12 school buildings in the United States is in inad-  
13 adequate condition, and of such buildings, 61 percent  
14 need maintenance or major repairs, 43 percent are  
15 obsolete, 42 percent contain environmental hazards,  
16 25 percent are overcrowded, and 13 percent are  
17 structurally unsound.

18 “(4) According to a 1996 General Accounting  
19 Office report, 14,000,000 students attend schools in  
20 which 1 or more school buildings (original, addi-  
21 tional, or temporary) are in need of extensive repair  
22 or replacement.

23 “(5) Large numbers of local educational agen-  
24 cies have difficulties securing financing for school fa-  
25 cility improvement.

1 **“SEC. 12002. PURPOSE.**

2       “The purpose of this title is to leverage limited Fed-  
3 eral funds to enable local educational agencies to finance  
4 the costs associated with the improvement of school facili-  
5 ties within their jurisdiction.

6 **“SEC. 12003. FEDERAL ASSISTANCE IN THE FORM OF**  
7 **LOANS.**

8       “(a) **AUTHORITY AND CONDITIONS FOR LOANS.**—To  
9 assist local educational agencies in the construction of  
10 schools to replace schools which are 50 years of age or  
11 older, or in the reconstruction or renovation of schools  
12 which are 50 years of age or older, the Secretary may  
13 make loans of funds to such agencies for the construction,  
14 reconstruction, or renovation of such schools. Such assist-  
15 ance shall only be provided—

16               “(1) to local educational agencies eligible for  
17 grants under section 1124A, schools located on In-  
18 dian reservations, or local educational agencies eligi-  
19 ble for payments under sections 8003 and 8004; and

20               “(2) if the Secretary finds that such construc-  
21 tions will be undertaken in an economical manner,  
22 and that any such construction, reconstruction or  
23 renovation is not or will not be of elaborate or ex-  
24 travagant design or materials.

25       “(b) **PRIORITIES.**—

1           “(1) IN GENERAL.—In approving loans under  
2 this title, the Secretary shall consider—

3           “(A) the difficulty of the applicant in se-  
4 curing affordable financing from other sources;

5           “(B) the threat the condition of the phys-  
6 ical plant poses to the safety and well-being of  
7 students;

8           “(C) the demonstrated need for the con-  
9 struction, reconstruction, or renovation as based  
10 on the condition of the facility; and

11           “(D) the age of the facility to be renovated  
12 or replaced.

13           “(2) PREFERENCE.—In approving loans under  
14 this title, the Secretary shall give preference to ap-  
15 plicants from States that have made a loan to the  
16 applicant in an amount not less than 25 percent of  
17 the amount of the loan amount requested in the ap-  
18 plication and for the purpose described in the appli-  
19 cation.

20           “(c) AMOUNT AND CONDITIONS OF LOANS.—A loan  
21 to a local educational agency—

22           “(1) may be in an amount not exceeding the  
23 total development cost of the facility, as determined  
24 by the Secretary;

1           “(2) shall be secured in such manner, as may  
2           be determined by the Secretary;

3           “(3) shall be repaid within 30 years; and

4           “(4) shall bear interest at a rate, determined by  
5           the Secretary, that will cover the cost (as defined in  
6           section 502 of the Federal Credit Reform Act of  
7           1990) of the loan, and the administrative cost to the  
8           Federal Government of the loan.

9   **“SEC. 12004. FEDERAL ASSISTANCE IN THE FORM OF DEBT**  
10                                   **GUARANTEES.**

11           “(a) **AUTHORITY AND CONDITIONS FOR DEBT GUAR-**  
12 **ANTEES.**—To assist local educational agencies in the con-  
13 struction of schools to replace schools which are 50 years  
14 of age or older, or in the reconstruction or renovation of  
15 schools which are 50 years of age or older, the Secretary  
16 may guarantee and make commitments to guarantee eligi-  
17 ble debt instruments issued by such agencies for the con-  
18 struction, reconstruction, or renovation of such schools.  
19 Such assistance shall only be provided—

20           “(1) to local educational agencies eligible for  
21           grants under section 1124A, schools located on In-  
22           dian reservations, or local educational agencies eligi-  
23           ble for payments under sections 8003 and 8004; and

24           “(2) if the Secretary finds that such construc-  
25           tions will be undertaken in an economical manner,

1 and that any such construction, reconstruction or  
2 renovation is not or will not be of elaborate or ex-  
3 travagant design or materials.

4 “(b) PRIORITIES.—

5 “(1) IN GENERAL.—In approving debt guaran-  
6 tees under this title, the Secretary shall consider—

7 “(A) the difficulty of the applicant in se-  
8 curing affordable financing guarantees from  
9 other sources;

10 “(B) the threat the condition of the phys-  
11 ical plant poses to the safety and well-being of  
12 students;

13 “(C) the demonstrated need for the con-  
14 struction, reconstruction, or renovation as based  
15 on the condition of the facility; and

16 “(D) the age of the facility to be renovated  
17 or replaced.

18 “(2) PREFERENCE.—In approving debt guaran-  
19 tees under this title, the Secretary shall give pref-  
20 erence to applicants from States that have made a  
21 loan to the applicant for the purpose described in  
22 the application and in an amount not less than 25  
23 percent of the aggregate principal amount of the  
24 debt instruments to be guaranteed.

1       “(c) AMOUNT AND CONDITIONS OF GUARANTEES.—

2 A debt guarantee to a local educational agency—

3           “(1) may be in an amount not exceeding the  
4 total development cost of the facility, as determined  
5 by the Secretary;

6           “(2) shall be secured in such manner, as may  
7 be determined by the Secretary; and

8           “(3) shall be made only with respect to debt in-  
9 struments that—

10                   “(A) have a maturity of 30 years;

11                   “(B) bear interest at a maximum rate, de-  
12 termined by the Secretary taking into account  
13 the interest rate paid by the Federal Govern-  
14 ment with respect to Federal debt instruments  
15 of a similar nature; and

16                   “(C) otherwise are in such form and de-  
17 nomination, and are subject to such other con-  
18 ditions, as the Secretary shall prescribe.

19       “(d) FULL FAITH AND CREDIT.—The full faith and  
20 credit of the United States is hereby pledged to the pay-  
21 ment of all guarantees made under this section. Any such  
22 guarantee made by the Secretary shall be conclusive evi-  
23 dence of the eligibility of the debt instrument for such  
24 guarantee with respect to principal and interest, and the  
25 validity of any such guarantee so made shall be incontest-

1 able in the hands of a holder of the guaranteed debt in-  
2 strument.

3 **“SEC. 12005. GENERAL PROVISIONS.**

4 “(a) BUDGET AND ACCOUNTING.—In the perform-  
5 ance of, and with respect to, the functions, powers, and  
6 duties under this title, the Secretary, notwithstanding the  
7 provisions of any other law, shall—

8 “(1) prepare annually and submit a budget pro-  
9 gram as provided for wholly owned Government cor-  
10 porations by chapter 91 of title 31, United States  
11 Code; and

12 “(2) maintain a set of accounts which shall be  
13 audited by the Comptroller General in accordance  
14 with the provisions of chapter 35 of title 31, United  
15 States Code.

16 “(b) USE OF FUNDS.—Funds made available to the  
17 Secretary pursuant to the provisions of this title shall be  
18 deposited in a checking account or accounts with the  
19 Treasurer of the United States. Receipts and assets ob-  
20 tained or held by the Secretary in connection with the per-  
21 formance of functions under this title, and all funds avail-  
22 able for carrying out the functions of the Secretary under  
23 this title (including appropriations therefor, which are  
24 hereby authorized), shall be available, in such amounts as  
25 may from year to year be authorized by the Congress, for

1 the administrative expenses of the Secretary in connection  
2 with the performance of such functions.

3 “(c) LEGAL POWERS.—In the performance of, and  
4 with respect to, the functions, powers, and duties under  
5 this title, the Secretary, notwithstanding the provisions of  
6 any other law, may—

7 “(1) prescribe such rules and regulations as  
8 may be necessary to carry out the purposes of this  
9 title;

10 “(2) sue and be sued;

11 “(3) foreclose on any property or commence any  
12 action to protect or enforce any right conferred upon  
13 the Secretary by any law, contract, or other agree-  
14 ment, and bid for and purchase at any foreclosure  
15 or any other sale any property in connection with  
16 which the Secretary has made a loan pursuant to  
17 this title;

18 “(4) in the event of any such acquisition, not-  
19 withstanding any other provision of law relating to  
20 the acquisition, handling, or disposal of real property  
21 by the United States, complete, administer, remodel  
22 and convert, dispose of, lease, and otherwise deal  
23 with, such property, but any such acquisition of real  
24 property shall not deprive any State or political sub-  
25 division thereof of its civil or criminal jurisdiction in

1 and over such property or impair the civil rights  
2 under the State or local laws of the inhabitants on  
3 such property;

4 “(5) sell or exchange at public or private sale,  
5 or lease, real or personal property, and sell or ex-  
6 change any securities or obligations, upon such  
7 terms as the Secretary may fix;

8 “(6) obtain insurance against loss in connection  
9 with property and other assets held; and

10 “(7) include in any contract or instrument  
11 made pursuant to this title such other covenants,  
12 conditions, or provisions as may be necessary to as-  
13 sure that the purposes of this title will be achieved.

14 “(d) CONTRACTS FOR SUPPLIES OR SERVICES.—Sec-  
15 tion 3709 of the Revised Statutes shall not apply to any  
16 contract for services or supplies on account of any prop-  
17 erty acquired pursuant to this title if the amount of such  
18 contract does not exceed \$1,000.

19 “(e) APPLICABILITY OF GOVERNMENT CORPORATION  
20 CONTROL ACT.—The provisions of section 9107(a) of title  
21 31, United States Code, which are applicable to corpora-  
22 tions or agencies subject to chapter 91 of such title, shall  
23 also be applicable to the activities of the Secretary under  
24 this title.

25 “(f) LABOR STANDARDS.—

1           “(1) LABORERS AND MECHANICS.—All laborers  
2           and mechanics employed by contractors or sub-  
3           contractors in the performance of any contract or  
4           subcontract for the repair, renovation, alteration, or  
5           construction, including painting or decorating, of  
6           any building or work that is financed in whole or in  
7           part by a grant, loan, or debt guarantee under this  
8           title, shall be paid wages not less than those deter-  
9           mined by the Secretary of Labor in accordance with  
10          the Act of March 3, 1931 (Davis Bacon Act), as  
11          amended. The Secretary of Labor shall have the au-  
12          thority and functions set forth in Reorganization  
13          Plan Number 14 of 1950 (15 FR 3176; 64 Stat.  
14          1267) and section 276c of title 40.

15           “(2) EXCEPTIONS.—The requirements of this  
16          subsection shall not apply to an individual—

17                   “(A) who volunteers—

18                           “(i) to perform a service directly to a  
19                           local educational agency for civic, chari-  
20                           table, or humanitarian reasons, without  
21                           promise, expectation, or receipt of com-  
22                           pensation for services rendered, other than  
23                           expenses, reasonable benefits, or a nominal  
24                           fee (as defined in subsection (b) of this

1 section), but solely for the personal pur-  
2 pose or pleasure of the individual; and

3 “(ii) to provide such service freely and  
4 without pressure or coercion, direct or im-  
5 plied, from any employer;

6 “(B) whose contribution of service is not  
7 for the direct or indirect benefit of any contrac-  
8 tor otherwise performing or seeking to perform  
9 work on the same project for which the individ-  
10 ual is volunteering;

11 “(C) who is not employed by and does not  
12 provide services to a contractor or subcontractor  
13 at any time on any contract or subcontract  
14 for the repair, renovation, alteration, or con-  
15 struction, including painting or decorating, of  
16 any building or work that is financed in part by  
17 a loan, or debt guarantee under this sub-  
18 chapter, for which the individual is volunteer-  
19 ing; and

20 “(D) who is not otherwise employed by the  
21 same local educational agency to perform the  
22 same type of services as those for which the in-  
23 dividual proposes to volunteer.

24 “(3) PAYMENTS TO VOLUNTEERS.—Payments  
25 of expenses, reasonable benefits, or a nominal fee

1 may be provided to volunteers described in para-  
2 graph (2) of this subsection only in accordance with  
3 regulations issued by the Secretary of Labor. In pre-  
4 scribing the regulations, the Secretary shall take  
5 into consideration criteria such as the total amount  
6 of payments made (relating to expenses, benefits, or  
7 fees) in the context of the economic realities. The  
8 regulations shall include provisions that provide  
9 that—

10 “(A) a payment for an expense may be re-  
11 ceived by a volunteer for items such as uniform  
12 allowances, protective gear and clothing, reim-  
13 bursement for approximate out-of-pocket ex-  
14 penses, or for the cost or expense of meals and  
15 transportation;

16 “(B) a reasonable benefit may include the  
17 inclusion of a volunteer in a group insurance  
18 plan (such as a liability, health, life, disability,  
19 or worker’s compensation plan) or pension plan,  
20 or the awarding of a length of service award;  
21 and

22 “(C) a nominal fee may not be used as a  
23 substitute for compensation and may not be  
24 connected to productivity.

1 The decision as to what constitutes a nominal fee for  
2 purposes of subparagraph (C) shall be determined  
3 based on the context of the economic realities of the  
4 situation involved and shall be made by the Sec-  
5 retary of Labor.

6 “(4) DETERMINATION OF PAYMENT.—For pur-  
7 poses of paragraph (2) of this subsection, in deter-  
8 mining whether an expense, benefit, or fee described  
9 in such subsection may be paid to volunteers in the  
10 context of the economic realities of the particular  
11 situation, the Secretary of Labor may not permit  
12 any such expense, benefit, or fee that has the effect  
13 of undermining labor standards by creating down-  
14 ward pressure on prevailing wages in the local con-  
15 struction industry.

16 “(g) LIMITATIONS.—

17 “(1) SUCCESSIVE LOANS.—No loan or bond  
18 guarantee shall be made under this title to any local  
19 educational agency until 5 years after the date on  
20 which a previous loan or bond guarantee to that  
21 agency was made under this title, unless the loan is  
22 intended to be used to construct or reconstruct a fa-  
23 cility damaged as a result of a natural disaster, as  
24 declared by the President.

1           “(2) SCHOOLS IN ONE STATE.—Not more than  
2           12.5 percent of the amount of the funds annually  
3           provided for in this title in the form of loans or bond  
4           guarantees shall be made available to educational in-  
5           stitutions within any one State.

6 **“SEC. 12006. DEFINITION.**

7           “The term ‘school’ is defined as public structures  
8           suitable for use as classrooms, laboratories, libraries, and  
9           related facilities, the primary purpose of which is the in-  
10          struction of elementary and secondary school students.

11 **“SEC. 12007. AUTHORIZATION OF APPROPRIATIONS.**

12          “There are authorized to be appropriated to carry out  
13          this title, \$200,000,000 for fiscal year 1999 and such  
14          sums as may be necessary for each of the 4 succeeding  
15          fiscal years.”.

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